

EXHIBIT I

**HB 286 Garnishment, previous; allows costs incurred by judgment creditor another bill?
are chargeable to judgment debtor.**



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f *Summary as passed: (all summaries)*

Previous garnishments; costs. Allows costs incurred by a judgment creditor in connection with a prior garnishment to be collected in a subsequent garnishment attempt that is based on the same judgment. This bill is identical to SB 561.

Full text:


- 2** 01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12100579D pdf
- 3** 01/23/12 House: Committee substitute printed 12104123D-H1 pdf
- 4** 02/27/12 House: Bill text as passed House and Senate (HB286ER) pdf
- 5** 03/30/12 Governor: Acts of Assembly Chapter text (CHAP0409) pdf

Amendments:

- 6** Senate amendments
- 7** Senate amendments engrossed

Status:

- 01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12100579D
- 8** 01/10/12 House: Referred to Committee for Courts of Justice
- 9** 01/13/12 House: Assigned Courts sub: Civil
- 10** 01/16/12 House: Subcommittee recommends reporting with amendment(s) (9-Y 0-N)
- 11** 01/23/12 House: Reported from Courts of Justice with substitute (18-Y 0-N)
- 01/23/12 House: Committee substitute printed 12104123D-H1
- 01/25/12 House: Read first time
- 01/26/12 House: Read second time
- 01/26/12 House: Committee substitute agreed to 12104123D-H1
- 01/26/12 House: Engrossed by House - committee substitute HB286H1
- 01/27/12 House: Passed by for the day
- 01/30/12 House: Read third time and passed House (80-Y 19-N)
- 12** 01/30/12 House: VOTE: PASSAGE (80-Y 19-N)
- 01/31/12 Senate: Constitutional reading dispensed
- 13** 01/31/12 Senate: Referred to Committee for Courts of Justice
- 14** 02/15/12 Senate: Reported from Courts of Justice with amendment (9-Y 4-N)
- 15** 02/17/12 Senate: Constitutional reading dispensed (40-Y 0-N)
- 02/20/12 Senate: Read third time
- 02/20/12 Senate: Reading of amendment waived
- 02/20/12 Senate: Committee amendment agreed to
- 02/20/12 Senate: Engrossed by Senate as amended
- 16** 02/20/12 Senate: Passed Senate with amendment (40-Y 0-N)
- 02/21/12 House: Placed on Calendar
- 02/22/12 House: Senate amendment agreed to by House (98-Y 0-N)
- 17** 02/22/12 House: VOTE: ADOPTION (98-Y 0-N)
- 02/27/12 House: Enrolled
- 02/27/12 House: Bill text as passed House and Senate (HB286ER)
- 02/27/12 House: Signed by Speaker
- 02/28/12 Senate: Signed by President
- 03/30/12 Governor: Approved by Governor-Chapter 409 (effective 7/1/12)
- 03/30/12 Governor: Acts of Assembly Chapter text (CHAP0409)

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor. another bill? 
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03/30/12 Governor: Approved by Governor-Chapter 409 (effective 7/1/12)
03/30/12 Governor: Acts of Assembly Chapter text (CHAP0409)

2012 SESSION

INTRODUCED

12100579D

HOUSE BILL NO. 286

Offered January 11, 2012

Prefiled January 10, 2012

A BILL to amend and reenact § 8.01-511 of the Code of Virginia, relating to previous garnishments; costs.

Patron—Iaquinto

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-511 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-511. Institution of garnishment proceedings.

On a suggestion by the judgment creditor that, by reason of the lien of his writ of fieri facias, there is a liability on any person other than the judgment debtor or that there is in the hands of some person in his capacity as personal representative of some decedent a sum of money to which a judgment debtor is or may be entitled as creditor or distributee of such decedent, upon which sum when determined such writ of fieri facias is a lien, a summons in the form prescribed by § 8.01-512.3 may (i) be sued out of the clerk's office of the court from which an execution on the judgment is issued so long as the judgment shall remain enforceable as provided in § 8.01-251, (ii) be sued out of the clerk's office to which an execution issued thereon has been returned as provided in § 16.1-99 against such person, or (iii) be sued out of the clerk's office from which an execution issued as provided in § 16.1-278.18. The summons and the notice and claim for exemption form required pursuant to § 8.01-512.4 shall be served on the garnishee, and shall be served on the judgment debtor promptly after service on the garnishee. Service on the judgment debtor and the garnishee shall be made pursuant to subdivision 1 or 2 of § 8.01-296. When making an application for garnishment, the judgment creditor shall set forth on the suggestion for summons in garnishment the last known address of the judgment debtor, and shall furnish the clerk, if service is to be made by the sheriff, or shall furnish any other person making service with an envelope, with first-class postage attached, addressed to such address. A copy of the summons and the notice and claim for exemptions form required under § 8.01-512.4 shall be sent by the clerk to the sheriff or provided by the judgment creditor to the person making service, with the process to be served. Promptly after service on the garnishee, the person making service shall mail such envelope by first-class mail to the judgment debtor at his last known address. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 of § 8.01-296, such mailing shall satisfy the mailing requirements of subdivision 2 b of § 8.01-296. The person making service shall note on his return the date of such mailing which, with the notation "copy mailed to judgment debtor," shall be sufficient proof of the mailing of such envelope with the required copy of the summons and the notice and claim for exemption form with no examination of such contents being required nor separate certification by the clerk or judgment creditor that the appropriate documents have been so inserted. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 or 2 of § 8.01-296, such mailing shall constitute service of process on the judgment debtor. The judgment creditor shall furnish the social security number of the judgment debtor to the clerk, except as hereinafter provided.

The judgment creditor may require the judgment debtor to furnish his correct social security number by the use of interrogatories. However, use of such interrogatories shall not be a required condition of a judgment creditor's diligent good faith effort to secure the judgment debtor's social security number. Such remedy shall be in addition to all other lawful remedies available to the judgment creditor.

Except as hereinafter provided, no summons shall be issued pursuant to this section for the garnishment of wages, salaries, commissions, or other earnings unless it: (i) is in the form prescribed by § 8.01-512.3; (ii) is directed to only one garnishee for the garnishment of only one judgment debtor; (iii) contains both the "TOTAL BALANCE DUE" and the social security number of the judgment debtor in the proper places as provided on the summons; and (iv) specifies that it is a garnishment against (a) the judgment debtor's wages, salary, or other compensation or (b) some other debt due or property of the judgment debtor. The garnishee shall not be liable to the judgment creditor for any property not specified in the summons as provided in (iv) above. Upon receipt of a summons not in compliance with this provision, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer.

However, if the judgment which the judgment creditor seeks to enforce (i) does not involve a business, trade or professional credit transaction entered into on or after January 1, 1984, or (ii) is based

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59 on any transaction entered into prior to January 1, 1984, then upon a representation by the judgment
60 creditor, or his agent or attorney, that he has made a diligent good faith effort to secure the social
61 security number of the judgment debtor and has been unable to do so, the garnishment shall be issued
62 without the necessity for such number. In such cases, if the judgment debtor's correct social security
63 number is not shown in the place provided on the summons, and the judgment debtor's name and
64 address as shown on the garnishment summons do not match the name and current address of any
65 employee as shown on the current payroll records of the garnishee, the garnishee shall file a written
66 answer to that effect and shall have no liability to the judgment creditor, such summons being void upon
67 transmission of the answer.

68 The judgment creditor shall, in the suggestion, specify the amount of interest, if any, that is claimed
69 to be due upon the judgment, calculated to the return day of the summons. He shall also set out such
70 credits as may have been made upon the judgment.

71 *If a prior summons has been issued on the judgment that has not been fully satisfied, all costs*
72 *incurred by the judgment creditor related to such prior summons and paid to a clerk of court, sheriff, or*
73 *process server, provided that the fee of the process server does not exceed the fee authorized for service*
74 *by the sheriff, are chargeable against the judgment debtor in any subsequent garnishment based on the*
75 *same judgment. Such costs may be included by the judgment creditor as judgment costs in the*
76 *garnishment summons form prescribed in § 8.01-512.3. This paragraph shall not be construed to limit*
77 *any cost assessed by a court as part of the judgment.*

78 No summons shall be issued pursuant to this section at the suggestion of the judgment creditor or his
79 assignee against the wages of a judgment debtor unless the judgment creditor, or his agent or attorney,
80 shall allege in his suggestion that the judgment for which enforcement is sought either (i) involves a
81 business, trade, or professional credit transaction entered into on or after January 1, 1984, or (ii) does
82 not involve a business, trade, or professional credit transaction entered into on or after January 1, 1984,
83 and a diligent good faith effort has been made by the judgment creditor, or his agent or attorney, to
84 secure the social security number of the judgment debtor.

85 In addition, the suggestion shall contain an allegation that:

86 1. The summons is based upon a judgment upon which a prior summons has been issued but not
87 fully satisfied; or

88 2. No summons has been issued upon his suggestion against the same judgment debtor within a
89 period of 18 months, other than under the provisions of subdivision 1; or

90 3. The summons is based upon a judgment granted against a debtor upon a debt due or made for
91 necessary food, rent or shelter, public utilities including telephone service, drugs, or medical care
92 supplied the debtor by the judgment creditor or to one of his lawful dependents, and that it was not for
93 luxuries or nonessentials; or

94 4. The summons is based upon a judgment for a debt due the judgment creditor to refinance a lawful
95 loan made by an authorized lending institution; or

96 5. The summons is based upon a judgment on an obligation incurred as an endorser or comaker upon
97 a lawful note; or

98 6. The summons is based upon a judgment for a debt or debts reaffirmed after bankruptcy.

99 Any judgment creditor who knowingly gives false information upon any such suggestion or
100 certificate made under this chapter shall be guilty of a Class 1 misdemeanor.

2012 SESSION

HOUSE SUBSTITUTE

12104123D

HOUSE BILL NO. 286

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 23, 2012)

(Patron Prior to Substitute—Delegate Iaquinto)

*A BILL to amend and reenact § 8.01-511 of the Code of Virginia, relating to previous garnishments; costs.***Be it enacted by the General Assembly of Virginia:****1. That § 8.01-511 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-511. Institution of garnishment proceedings.**

On a suggestion by the judgment creditor that, by reason of the lien of his writ of fieri facias, there is a liability on any person other than the judgment debtor or that there is in the hands of some person in his capacity as personal representative of some decedent a sum of money to which a judgment debtor is or may be entitled as creditor or distributee of such decedent, upon which sum when determined such writ of fieri facias is a lien, a summons in the form prescribed by § 8.01-512.3 may (i) be sued out of the clerk's office of the court from which an execution on the judgment is issued so long as the judgment shall remain enforceable as provided in § 8.01-251, (ii) be sued out of the clerk's office to which an execution issued thereon has been returned as provided in § 16.1-99 against such person, or (iii) be sued out of the clerk's office from which an execution issued as provided in § 16.1-278.18. The summons and the notice and claim for exemption form required pursuant to § 8.01-512.4 shall be served on the garnishee, and shall be served on the judgment debtor promptly after service on the garnishee. Service on the judgment debtor and the garnishee shall be made pursuant to subdivision 1 or 2 of § 8.01-296. When making an application for garnishment, the judgment creditor shall set forth on the suggestion for summons in garnishment the last known address of the judgment debtor, and shall furnish the clerk, if service is to be made by the sheriff, or shall furnish any other person making service with an envelope, with first-class postage attached, addressed to such address. A copy of the summons and the notice and claim for exemptions form required under § 8.01-512.4 shall be sent by the clerk to the sheriff or provided by the judgment creditor to the person making service, with the process to be served. Promptly after service on the garnishee, the person making service shall mail such envelope by first-class mail to the judgment debtor at his last known address. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 of § 8.01-296, such mailing shall satisfy the mailing requirements of subdivision 2 b of § 8.01-296. The person making service shall note on his return the date of such mailing which, with the notation "copy mailed to judgment debtor," shall be sufficient proof of the mailing of such envelope with the required copy of the summons and the notice and claim for exemption form with no examination of such contents being required nor separate certification by the clerk or judgment creditor that the appropriate documents have been so inserted. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 or 2 of § 8.01-296, such mailing shall constitute service of process on the judgment debtor. The judgment creditor shall furnish the social security number of the judgment debtor to the clerk, except as hereinafter provided.

The judgment creditor may require the judgment debtor to furnish his correct social security number by the use of interrogatories. However, use of such interrogatories shall not be a required condition of a judgment creditor's diligent good faith effort to secure the judgment debtor's social security number. Such remedy shall be in addition to all other lawful remedies available to the judgment creditor.

Except as hereinafter provided, no summons shall be issued pursuant to this section for the garnishment of wages, salaries, commissions, or other earnings unless it: (i) is in the form prescribed by § 8.01-512.3; (ii) is directed to only one garnishee for the garnishment of only one judgment debtor; (iii) contains both the "TOTAL BALANCE DUE" and the social security number of the judgment debtor in the proper places as provided on the summons; and (iv) specifies that it is a garnishment against (a) the judgment debtor's wages, salary, or other compensation or (b) some other debt due or property of the judgment debtor. The garnishee shall not be liable to the judgment creditor for any property not specified in the summons as provided in (iv) above. Upon receipt of a summons not in compliance with this provision, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer.

However, if the judgment which the judgment creditor seeks to enforce (i) does not involve a business, trade or professional credit transaction entered into on or after January 1, 1984, or (ii) is based on any transaction entered into prior to January 1, 1984, then upon a representation by the judgment creditor, or his agent or attorney, that he has made a diligent good faith effort to secure the social security number of the judgment debtor and has been unable to do so, the garnishment shall be issued

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without the necessity for such number. In such cases, if the judgment debtor's correct social security number is not shown in the place provided on the summons, and the judgment debtor's name and address as shown on the garnishment summons do not match the name and current address of any employee as shown on the current payroll records of the garnishee, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer.

The judgment creditor shall, in the suggestion, specify the amount of interest, if any, that is claimed to be due upon the judgment, calculated to the return day of the summons. He shall also set out such credits as may have been made upon the judgment.

All costs incurred by the judgment creditor after entry of the judgment, in aid of execution of the judgment and paid to a clerk of court, sheriff, or process server are chargeable against the judgment debtor, unless such costs are chargeable against the judgment creditor pursuant to § 8.01-475. Regardless of the actual amount of the fee paid by the judgment creditor, the fee for a process server chargeable against the judgment debtor shall not exceed the fee authorized for service by the sheriff. All such previous costs chargeable against the judgment debtor may be included by the judgment creditor as judgment costs in the garnishment summons form prescribed in § 8.01-512.3. This paragraph shall not be construed to limit any cost assessed by a court as part of the judgment.

No summons shall be issued pursuant to this section at the suggestion of the judgment creditor or his assignee against the wages of a judgment debtor unless the judgment creditor, or his agent or attorney, shall allege in his suggestion that the judgment for which enforcement is sought either (i) involves a business, trade, or professional credit transaction entered into on or after January 1, 1984, or (ii) does not involve a business, trade, or professional credit transaction entered into on or after January 1, 1984, and a diligent good faith effort has been made by the judgment creditor, or his agent or attorney, to secure the social security number of the judgment debtor.

In addition, the suggestion shall contain an allegation that:

1. The summons is based upon a judgment upon which a prior summons has been issued but not fully satisfied; or

2. No summons has been issued upon his suggestion against the same judgment debtor within a period of 18 months, other than under the provisions of subdivision 1; or

3. The summons is based upon a judgment granted against a debtor upon a debt due or made for necessary food, rent or shelter, public utilities including telephone service, drugs, or medical care supplied the debtor by the judgment creditor or to one of his lawful dependents, and that it was not for luxuries or nonessentials; or

4. The summons is based upon a judgment for a debt due the judgment creditor to refinance a lawful loan made by an authorized lending institution; or

5. The summons is based upon a judgment on an obligation incurred as an endorser or comaker upon a lawful note; or

6. The summons is based upon a judgment for a debt or debts reaffirmed after bankruptcy.

Any judgment creditor who knowingly gives false information upon any such suggestion or certificate made under this chapter shall be guilty of a Class 1 misdemeanor.

2. That the provisions of this act shall apply to summonses issued on or after January 1, 2007.

2012 SESSION

ENROLLED

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 8.01-511 of the Code of Virginia, relating to previous garnishments;*
 3 *costs.*

[H 286]

Approved

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 8.01-511 of the Code of Virginia is amended and reenacted as follows:

8 § 8.01-511. Institution of garnishment proceedings.

9 On a suggestion by the judgment creditor that, by reason of the lien of his writ of fieri facias, there
 10 is a liability on any person other than the judgment debtor or that there is in the hands of some person
 11 in his capacity as personal representative of some decedent a sum of money to which a judgment debtor
 12 is or may be entitled as creditor or distributee of such decedent, upon which sum when determined such
 13 writ of fieri facias is a lien, a summons in the form prescribed by § 8.01-512.3 may (i) be sued out of
 14 the clerk's office of the court from which an execution on the judgment is issued so long as the
 15 judgment shall remain enforceable as provided in § 8.01-251, (ii) be sued out of the clerk's office to
 16 which an execution issued thereon has been returned as provided in § 16.1-99 against such person, or
 17 (iii) be sued out of the clerk's office from which an execution issued as provided in § 16.1-278.18. The
 18 summons and the notice and claim for exemption form required pursuant to § 8.01-512.4 shall be served
 19 on the garnishee, and shall be served on the judgment debtor promptly after service on the garnishee.
 20 Service on the judgment debtor and the garnishee shall be made pursuant to subdivision 1 or 2 of
 21 § 8.01-296. When making an application for garnishment, the judgment creditor shall set forth on the
 22 suggestion for summons in garnishment the last known address of the judgment debtor, and shall furnish
 23 the clerk, if service is to be made by the sheriff, or shall furnish any other person making service with
 24 an envelope, with first-class postage attached, addressed to such address. A copy of the summons and
 25 the notice and claim for exemptions form required under § 8.01-512.4 shall be sent by the clerk to the
 26 sheriff or provided by the judgment creditor to the person making service, with the process to be served.
 27 Promptly after service on the garnishee, the person making service shall mail such envelope by
 28 first-class mail to the judgment debtor at his last known address. If the person making service is unable
 29 to serve the judgment debtor pursuant to subdivision 1 of § 8.01-296, such mailing shall satisfy the
 30 mailing requirements of subdivision 2 b of § 8.01-296. The person making service shall note on his
 31 return the date of such mailing which, with the notation "copy mailed to judgment debtor," shall be
 32 sufficient proof of the mailing of such envelope with the required copy of the summons and the notice
 33 and claim for exemption form with no examination of such contents being required nor separate
 34 certification by the clerk or judgment creditor that the appropriate documents have been so inserted. If
 35 the person making service is unable to serve the judgment debtor pursuant to subdivision 1 or 2 of
 36 § 8.01-296, such mailing shall constitute service of process on the judgment debtor. The judgment
 37 creditor shall furnish the social security number of the judgment debtor to the clerk, except as
 38 hereinafter provided.

39 The judgment creditor may require the judgment debtor to furnish his correct social security number
 40 by the use of interrogatories. However, use of such interrogatories shall not be a required condition of a
 41 judgment creditor's diligent good faith effort to secure the judgment debtor's social security number.
 42 Such remedy shall be in addition to all other lawful remedies available to the judgment creditor.

43 Except as hereinafter provided, no summons shall be issued pursuant to this section for the
 44 garnishment of wages, salaries, commissions, or other earnings unless it: (i) is in the form prescribed by
 45 § 8.01-512.3; (ii) is directed to only one garnishee for the garnishment of only one judgment debtor; (iii)
 46 contains both the "TOTAL BALANCE DUE" and the social security number of the judgment debtor in
 47 the proper places as provided on the summons; and (iv) specifies that it is a garnishment against (a) the
 48 judgment debtor's wages, salary, or other compensation or (b) some other debt due or property of the
 49 judgment debtor. The garnishee shall not be liable to the judgment creditor for any property not
 50 specified in the summons as provided in (iv) above. Upon receipt of a summons not in compliance with
 51 this provision, the garnishee shall file a written answer to that effect and shall have no liability to the
 52 judgment creditor, such summons being void upon transmission of the answer.

53 However, if the judgment which the judgment creditor seeks to enforce (i) does not involve a
 54 business, trade or professional credit transaction entered into on or after January 1, 1984, or (ii) is based
 55 on any transaction entered into prior to January 1, 1984, then upon a representation by the judgment
 56 creditor, or his agent or attorney, that he has made a diligent good faith effort to secure the social

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57 security number of the judgment debtor and has been unable to do so, the garnishment shall be issued
58 without the necessity for such number. In such cases, if the judgment debtor's correct social security
59 number is not shown in the place provided on the summons, and the judgment debtor's name and
60 address as shown on the garnishment summons do not match the name and current address of any
61 employee as shown on the current payroll records of the garnishee, the garnishee shall file a written
62 answer to that effect and shall have no liability to the judgment creditor, such summons being void upon
63 transmission of the answer.

64 The judgment creditor shall, in the suggestion, specify the amount of interest, if any, that is claimed
65 to be due upon the judgment, calculated to the return day of the summons. He shall also set out such
66 credits as may have been made upon the judgment.

67 *All costs incurred by the judgment creditor after entry of the judgment, in aid of execution of the*
68 *judgment and paid to a clerk of court, sheriff, or process server are chargeable against the judgment*
69 *debtor, unless such costs are chargeable against the judgment creditor pursuant to § 8.01-475.*
70 *Regardless of the actual amount of the fee paid by the judgment creditor, the fee for a process server*
71 *chargeable against the judgment debtor shall not exceed the fee authorized for service by the sheriff. All*
72 *such previous costs chargeable against the judgment debtor may be included by the judgment creditor*
73 *as judgment costs in the garnishment summons form prescribed in § 8.01-512.3. This paragraph shall*
74 *not be construed to limit any cost assessed by a court as part of the judgment.*

75 No summons shall be issued pursuant to this section at the suggestion of the judgment creditor or his
76 assignee against the wages of a judgment debtor unless the judgment creditor, or his agent or attorney,
77 shall allege in his suggestion that the judgment for which enforcement is sought either (i) involves a
78 business, trade, or professional credit transaction entered into on or after January 1, 1984, or (ii) does
79 not involve a business, trade, or professional credit transaction entered into on or after January 1, 1984,
80 and a diligent good faith effort has been made by the judgment creditor, or his agent or attorney, to
81 secure the social security number of the judgment debtor.

82 In addition, the suggestion shall contain an allegation that:

83 1. The summons is based upon a judgment upon which a prior summons has been issued but not
84 fully satisfied; or

85 2. No summons has been issued upon his suggestion against the same judgment debtor within a
86 period of 18 months, other than under the provisions of subdivision 1; or

87 3. The summons is based upon a judgment granted against a debtor upon a debt due or made for
88 necessary food, rent or shelter, public utilities including telephone service, drugs, or medical care
89 supplied the debtor by the judgment creditor or to one of his lawful dependents, and that it was not for
90 luxuries or nonessentials; or

91 4. The summons is based upon a judgment for a debt due the judgment creditor to refinance a lawful
92 loan made by an authorized lending institution; or

93 5. The summons is based upon a judgment on an obligation incurred as an endorser or comaker upon
94 a lawful note; or

95 6. The summons is based upon a judgment for a debt or debts reaffirmed after bankruptcy.

96 Any judgment creditor who knowingly gives false information upon any such suggestion or
97 certificate made under this chapter shall be guilty of a Class 1 misdemeanor.

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 409

An Act to amend and reenact § 8.01-511 of the Code of Virginia, relating to previous garnishments; costs.

[H 286]

Approved March 30, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-511 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-511. Institution of garnishment proceedings.

On a suggestion by the judgment creditor that, by reason of the lien of his writ of fieri facias, there is a liability on any person other than the judgment debtor or that there is in the hands of some person in his capacity as personal representative of some decedent a sum of money to which a judgment debtor is or may be entitled as creditor or distributee of such decedent, upon which sum when determined such writ of fieri facias is a lien, a summons in the form prescribed by § 8.01-512.3 may (i) be sued out of the clerk's office of the court from which an execution on the judgment is issued so long as the judgment shall remain enforceable as provided in § 8.01-251, (ii) be sued out of the clerk's office to which an execution issued thereon has been returned as provided in § 16.1-99 against such person, or (iii) be sued out of the clerk's office from which an execution issued as provided in § 16.1-278.18. The summons and the notice and claim for exemption form required pursuant to § 8.01-512.4 shall be served on the garnishee, and shall be served on the judgment debtor promptly after service on the garnishee. Service on the judgment debtor and the garnishee shall be made pursuant to subdivision 1 or 2 of § 8.01-296. When making an application for garnishment, the judgment creditor shall set forth on the suggestion for summons in garnishment the last known address of the judgment debtor, and shall furnish the clerk, if service is to be made by the sheriff, or shall furnish any other person making service with an envelope, with first-class postage attached, addressed to such address. A copy of the summons and the notice and claim for exemptions form required under § 8.01-512.4 shall be sent by the clerk to the sheriff or provided by the judgment creditor to the person making service, with the process to be served. Promptly after service on the garnishee, the person making service shall mail such envelope by first-class mail to the judgment debtor at his last known address. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 of § 8.01-296, such mailing shall satisfy the mailing requirements of subdivision 2 b of § 8.01-296. The person making service shall note on his return the date of such mailing which, with the notation "copy mailed to judgment debtor," shall be sufficient proof of the mailing of such envelope with the required copy of the summons and the notice and claim for exemption form with no examination of such contents being required nor separate certification by the clerk or judgment creditor that the appropriate documents have been so inserted. If the person making service is unable to serve the judgment debtor pursuant to subdivision 1 or 2 of § 8.01-296, such mailing shall constitute service of process on the judgment debtor. The judgment creditor shall furnish the social security number of the judgment debtor to the clerk, except as hereinafter provided.

The judgment creditor may require the judgment debtor to furnish his correct social security number by the use of interrogatories. However, use of such interrogatories shall not be a required condition of a judgment creditor's diligent good faith effort to secure the judgment debtor's social security number. Such remedy shall be in addition to all other lawful remedies available to the judgment creditor.

Except as hereinafter provided, no summons shall be issued pursuant to this section for the garnishment of wages, salaries, commissions, or other earnings unless it: (i) is in the form prescribed by § 8.01-512.3; (ii) is directed to only one garnishee for the garnishment of only one judgment debtor; (iii) contains both the "TOTAL BALANCE DUE" and the social security number of the judgment debtor in the proper places as provided on the summons; and (iv) specifies that it is a garnishment against (a) the judgment debtor's wages, salary, or other compensation or (b) some other debt due or property of the judgment debtor. The garnishee shall not be liable to the judgment creditor for any property not specified in the summons as provided in (iv) above. Upon receipt of a summons not in compliance with this provision, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer.

However, if the judgment which the judgment creditor seeks to enforce (i) does not involve a business, trade or professional credit transaction entered into on or after January 1, 1984, or (ii) is based on any transaction entered into prior to January 1, 1984, then upon a representation by the judgment creditor, or his agent or attorney, that he has made a diligent good faith effort to secure the social security number of the judgment debtor and has been unable to do so, the garnishment shall be issued without the necessity for such number. In such cases, if the judgment debtor's correct social security

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number is not shown in the place provided on the summons, and the judgment debtor's name and address as shown on the garnishment summons do not match the name and current address of any employee as shown on the current payroll records of the garnishee, the garnishee shall file a written answer to that effect and shall have no liability to the judgment creditor, such summons being void upon transmission of the answer.

The judgment creditor shall, in the suggestion, specify the amount of interest, if any, that is claimed to be due upon the judgment, calculated to the return day of the summons. He shall also set out such credits as may have been made upon the judgment.

All costs incurred by the judgment creditor after entry of the judgment, in aid of execution of the judgment and paid to a clerk of court, sheriff, or process server are chargeable against the judgment debtor, unless such costs are chargeable against the judgment creditor pursuant to § 8.01-475. Regardless of the actual amount of the fee paid by the judgment creditor, the fee for a process server chargeable against the judgment debtor shall not exceed the fee authorized for service by the sheriff. All such previous costs chargeable against the judgment debtor may be included by the judgment creditor as judgment costs in the garnishment summons form prescribed in § 8.01-512.3. This paragraph shall not be construed to limit any cost assessed by a court as part of the judgment.

No summons shall be issued pursuant to this section at the suggestion of the judgment creditor or his assignee against the wages of a judgment debtor unless the judgment creditor, or his agent or attorney, shall allege in his suggestion that the judgment for which enforcement is sought either (i) involves a business, trade, or professional credit transaction entered into on or after January 1, 1984, or (ii) does not involve a business, trade, or professional credit transaction entered into on or after January 1, 1984, and a diligent good faith effort has been made by the judgment creditor, or his agent or attorney, to secure the social security number of the judgment debtor.

In addition, the suggestion shall contain an allegation that:

1. The summons is based upon a judgment upon which a prior summons has been issued but not fully satisfied; or
2. No summons has been issued upon his suggestion against the same judgment debtor within a period of 18 months, other than under the provisions of subdivision 1; or
3. The summons is based upon a judgment granted against a debtor upon a debt due or made for necessary food, rent or shelter, public utilities including telephone service, drugs, or medical care supplied the debtor by the judgment creditor or to one of his lawful dependents, and that it was not for luxuries or nonessentials; or
4. The summons is based upon a judgment for a debt due the judgment creditor to refinance a lawful loan made by an authorized lending institution; or
5. The summons is based upon a judgment on an obligation incurred as an endorser or comaker upon a lawful note; or
6. The summons is based upon a judgment for a debt or debts reaffirmed after bankruptcy.

Any judgment creditor who knowingly gives false information upon any such suggestion or certificate made under this chapter shall be guilty of a Class 1 misdemeanor.

(HB286)

AMENDMENT(S) PROPOSED BY THE SENATE

COURTS OF JUSTICE

1. Line 100, engrossed, at the beginning of the line

strike

2. That the provisions of this act shall apply to summonses issued on or after January 1, 2007.

Legislative Information System

(HB286)

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Legislative Information System



House Courts of Justice

Log in

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Membership: Albo (Chairman), Kilgore, Bell, Robert B., Cline, Iaquinto, Gilbert, Miller, Loupassi, Villanueva, Habeeb, Farrell, Minchew, Morris, Johnson, Watts, Toscano, Herring, McClellan

Meets: *Monday, Wednesday and Friday, 1/2 hour after adjournment, House Room C*

Committee dockets

Committee Legislation:

- Referred
- In committee
- In sub-committee
- Reported out
- Continued
- Failed

Sub-Committees:

- #1 Criminal
- #2 Civil
- #3 Immigration
- #4 Judicial Appointments
- #5 Mental Health
- #6 Evidence



House Courts of Justice
Sub-Committee: #2 Civil

Log in

go

Membership: Iaquinto (Chairman), Kilgore, Loupassi, Habeeb, Farrell, Minchew, Johnson, Toscano, McClellan

Meets: Monday, 1/2 hour after adjournment, House Room D

Agendas | Subcommittee Reports

Sub-Committee dockets:

- February 22, 2012
- February 10, 2012
- February 1, 2012
- January 30, 2012
- January 25, 2012
- January 23, 2012
- January 18, 2012
- January 16, 2012

Legislation in sub-committee: (registered users: create report or comma-delimited file)

(none at this time)

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor.

01/13/12 House: Assigned Courts sub: Civil

01/16/12 House: Subcommittee recommends reporting with amendment(s) (9-Y 0-N)

YEAS--Jaquinto, Kilgore, Loupassi, Habeeb, Farrell, Minchew, Johnson, Toscano, McClellan--9.

NAYS--0.

ABSTENTIONS--0.

NOT VOTING--0.

Legislative Information System | Bills & Resolutions

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor.

01/23/12 House: Reported from Courts of Justice with substitute (18-Y 0-N)

YEAS--Albo, Kilgore, Bell, Robert B., Cline, Iaquinto, Gilbert, Miller, Loupassi, Villanueva, Habeeb, Farrell, Minchew, Morris, Johnson, Watts, Toscano, Herring, McClellan--18.

NAYS--0.

ABSTENTIONS--0.

NOT VOTING--0.

Legislative Information System | Bills & Resolutions

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor.

floor: 01/30/12 House: VOTE: PASSAGE (80-Y 19-N)

YEAS--Albo, Alexander, Anderson, BaCote, Bell, Richard P., Bell, Robert B., Bulova, Byron, Cline, Cole, Comstock, Cosgrove, Cox, J.A., Cox, M.K., Crockett-Stark, Dudenhefer, Edmunds, Englin, Fariss, Farrell, Garrett, Gilbert, Greason, Habeeb, Head, Helsel, Hodges, Howell, A.T., Hugo, Iaquinto, Ingram, James, Joannou, Johnson, Jones, Kearn, Kilgore, Knight, Landes, LeMunyon, Lewis, Lingamfelter, Loupassi, Marshall, D.W., Marshall, R.G., Massie, May, McQuinn, Merricks, Miller, Minchew, Morefield, Morris, O'Bannon, O'Quinn, Orrock, Peace, Pogge, Poindexter, Purkey, Putney, Ramadan, Ransone, Robinson, Rush, Rust, Scott, E.T., Sherwood, Stolle, Tata, Torian, Villanueva, Ware, O., Ware, R.L., Watson, Webert, Wilt, Wright, Yancey, Yost--80.

NAYS--Brink, Carr, Dance, Filler-Corn, Herring, Hope, Kory, Lopez, Morrissey, Plum, Scott, J.M., Sickles, Spruill, Surovell, Toscano, Tyler, Ward, Watts, Mr. Speaker--19.

ABSTENTIONS--0.

NOT VOTING--McClellan--1.

Delegate BaCote was recorded as yea. Intended to vote nay.

Delegate James was recorded as yea. Intended to vote nay.

Delegate McQuinn was recorded as yea. Intended to vote nay.

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Senate Courts of Justice

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Membership: Norment (Chairman), Saslaw, Marsh, Howell, Lucas, Edwards, Puller, Obenshain, McDougle, McEachin, Stuart, Vogel, Stanley, Reeves, Garrett

Meets: *Monday, 8:00 a.m. and Wednesday, 1/2 hour after adjournment, Senate Room B*

[Committee dockets](#)

Committee Legislation:

- Referred
- In committee
- In sub-committee
- Reported out
- Continued
- Failed

Sub-Committees:

(none)

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor.

02/15/12 Senate: Reported from Courts of Justice with amendment (9-Y 4-N)

YEAS--Marsh, Howell, Lucas, Edwards, Puller, McEachin, Vogel, Stanley, Reeves--9.

NAYS--Norment, Obenshain, McDougle, Garrett--4.

ABSTENTIONS--0.

Legislative Information System | Bills & Resolutions

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor. log in | tally sheet
floor: 02/17/12 Senate: Constitutional reading dispensed (40-Y 0-N)

YEAS--Barker, Black, Blevins, Carrico, Colgan, Deeds, Ebbin, Edwards, Favola, Garrett, Hanger, Herring, Howell, Locke, Lucas, Marsden, Marsh, Martin, McDougle, McEachin, McWaters, Miller, J.C., Miller, Y.B., Newman, Norment, Northam, Obenshain, Petersen, Puckett, Puller, Reeves, Ruff, Saslaw, Smith, Stanley, Stosch, Stuart, Vogel, Wagner, Watkins--40.

NAYS--0.

RULE 36--0.

NOT VOTING--0.

Legislative Information System | Bills & Resolutions

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor. log in | tally sheet
floor: 02/20/12 Senate: Passed Senate with amendment (40-Y 0-N)

YEAS--Barker, Black, Blevins, Carrico, Colgan, Deeds, Ebbin, Edwards, Favola, Garrett, Hanger, Herring, Howell, Locke, Lucas, Marsden, Marsh, Martin, McDougle, McEachin, McWaters, Miller, J.C., Miller, Y.B., Newman, Norment, Northam, Obenshain, Petersen, Puckett, Puller, Reeves, Ruff, Saslaw, Smith, Stanley, Stosch, Stuart, Vogel, Wagner, Watkins--40.

NAYS--0.

RULE 36--0.

NOT VOTING--0.

Legislative Information System | Bills & Resolutions

HB 286 Garnishment, previous; allows costs incurred by judgment creditor are chargeable to judgment debtor.

floor: 02/22/12 House: VOTE: ADOPTION (98-Y 0-N)

YEAS--Albo, Anderson, BaCote, Bell, Richard P., Brink, Bulova, Byron, Carr, Cline, Cole, Comstock, Cosgrove, Cox, J.A., Cox, M.K., Crockett-Stark, Dance, Dudenhefer, Edmunds, Englin, Fariss, Farrell, Filler-Corn, Garrett, Gilbert, Greason, Habeeb, Head, Helsel, Herring, Hodges, Hope, Howell, A.T., Hugo, Iaquinto, Ingram, James, Joannou, Johnson, Jones, Kearn, Kilgore, Knight, Kory, Landes, LeMunyon, Lewis, Lingamfelter, Lopez, Loupassi, Marshall, D.W., Marshall, R.G., Massie, May, McClellan, McQuinn, Merricks, Miller, Minchew, Morefield, Morris, Morrissey, O'Bannon, O'Quinn, Orrock, Peace, Plum, Pogge, Poindexter, Purkey, Putney, Ramadan, Ransone, Robinson, Rush, Rust, Scott, E.T., Scott, J.M., Sherwood, Sickles, Spruill, Stolle, Surovell, Tata, Torian, Toscano, Tyler, Villanueva, Ward, Ware, O., Ware, R.L., Watson, Watts, Webert, Wilt, Wright, Yancey, Yost, Mr. Speaker--98.

NAYS--0.

ABSTENTIONS--0.

NOT VOTING--Alexander, Bell, Robert B.--2.

Delegate Alexander was recorded as not voting. Intended to vote yea.

Delegate Bell, Robert B. was recorded as not voting. Intended to vote yea.

Delegate McQuinn was recorded as yea. Intended to vote nay.

Delegate Tyler was recorded as yea. Intended to vote nay.

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